

DOCUMENT 1.12

including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Citizenship and Issuance of Certificate Under Section 322.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N-600K; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Form N-600K is used by children who regularly reside in a foreign country to claim U.S. citizenship based on eligibility criteria met by their U.S. citizen parent(s) or grandparent(s). The form may be used by both biological and adopted children under age 18. USCIS uses information collected on this form to determine that the child has met all of the eligibility requirements for naturalization under section 322 of the Immigration and Nationality Act (INA). If determined eligible, USCIS will naturalize and issue the child a Certificate of Citizenship before the child reaches age 18.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N-600K (Paper filed) is 2,187 and the estimated hour burden per response is 1.71 hours; the estimated total number of respondents for the information collection N-600K (online filing) is 2,860 and the estimated hour burden per response is 1.14 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 7,003 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$649,801.

Dated: June 14, 2023.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division,
Office of Policy and Strategy, U.S. Citizenship
and Immigration Services, Department of
Homeland Security.

[FR Doc. 2023-13110 Filed 6-20-23; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2732-22; DHS Docket No. USCIS-2008-0034]

RIN 1615-ZB71

Reconsideration and Rescission of Termination of the Designation of El Salvador for Temporary Protected Status; Extension of the Temporary Protected Status Designation for El Salvador

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS).

ACTION: Notice of Reconsideration and Rescission of Termination of the Designation of El Salvador for Temporary Protected Status (TPS) and Notice of Extension of TPS Designation for El Salvador.

SUMMARY: Through this notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) is rescinding the previous termination of the designation of El Salvador for TPS, which was published on January 18, 2018 and extending the designation of El Salvador for Temporary Protected Status (TPS) for 18 months, beginning on September 10, 2023, and ending on March 9, 2025. This extension allows existing TPS beneficiaries to retain TPS through March 9, 2025, so long as they otherwise continue to meet the eligibility requirements for TPS. Existing TPS beneficiaries who wish to extend their status through March 9, 2025, must re-register during the 60-day re-registration period as described in this notice.

DATES: The *Rescission of Termination of the Designation of El Salvador for TPS* took effect June 9, 2023.

Extension of Designation of El Salvador for TPS: The 18-month extension of TPS for El Salvador begins on September 10, 2023, and will remain in effect through March 9, 2025. The extension impacts existing beneficiaries of TPS under the designation of El Salvador.

Re-registration: The 60-day re-registration period for existing beneficiaries runs from July 12, 2023 through September 10, 2023.

FOR FURTHER INFORMATION CONTACT:

- You may contact Rená Cutlip-Mason, Chief, Humanitarian Affairs Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by mail at 5900 Capital Gateway Drive, Camp Springs, MD 20746, or by phone at 800-375-5283.
- For further information on TPS, including guidance on the registration process and additional information on eligibility, please visit the USCIS TPS web page at <https://www.uscis.gov/tps>. You can find specific information about El Salvador's TPS designation by selecting "El Salvador" from the menu on the left side of the TPS web page.
- If you have additional questions about TPS, please visit uscis.gov/tools. Our online virtual assistant, Emma, can answer many of your questions and point you to additional information on our website. If you are unable to find your answers there, you may also call our USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).
- Applicants seeking information about the status of their individual cases may check Case Status Online, available on the USCIS website at uscis.gov, or visit the USCIS Contact Center at <https://www.uscis.gov/contactcenter>.
- Further information will also be available at local USCIS offices upon publication of this notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

BIA—Board of Immigration Appeals
CFR—Code of Federal Regulations
DHS—U.S. Department of Homeland Security
DOS—U.S. Department of State
EAD—Employment Authorization Document
FNC—Final Nonconfirmation
Form I-131—Application for Travel Document
Form I-765—Application for Employment Authorization
Form I-797—Notice of Action
Form I-821—Application for Temporary Protected Status
Form I-9—Employment Eligibility Verification
Form I-912—Request for Fee Waiver
Form I-94—Arrival/Departure Record
FR—Federal Register
Government—U.S. Government
IER—U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section
IJ—Immigration Judge
INA—Immigration and Nationality Act
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security

TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration
Services
U.S.C.—United States Code

Purpose of This Action (TPS)

Through this notice, DHS announces the reconsideration and rescission of the termination of the designation of El Salvador for TPS and the Secretary's decision to extend the TPS designation for 18 months from September 10, 2023 through March 9, 2025. This notice also sets forth procedures necessary for nationals of El Salvador (or individuals having no nationality who last habitually resided in El Salvador) to re-register for TPS and to apply for renewal of their EADs with USCIS.

Re-registration is limited to individuals who have previously registered or re-registered for TPS under El Salvador's designation, whose applications were granted, and whose TPS has not been withdrawn for individual ineligibility for the benefit. Failure to re-register properly within the 60-day re-registration period may result in the withdrawal of your TPS following appropriate procedures. *See* 8 CFR 244.14.

For individuals who have already been granted TPS under El Salvador's designation, the 60-day re-registration period runs from July 12, 2023 through September 10, 2023. USCIS will issue new EADs with a March 9, 2025 expiration date to eligible Salvadoran TPS beneficiaries who timely re-register and apply for EADs.

Individuals who have an El Salvador TPS application (Form I-821) and Application for Employment Authorization (Form I-765) that were still pending as of June 21, 2023 do not need to file either application again. If USCIS approves an individual's pending Form I-821, USCIS will grant the individual TPS through March 9, 2025. Similarly, if USCIS approves a pending TPS-related Form I-765 filed in connection with a Form I-821, USCIS will issue the individual a new EAD that will be valid through the same date. If you have TPS and only a pending Form I-765, you must file the Form I-821 to re-register for TPS or risk having your TPS withdrawn for failure to timely re-register without good cause. There are currently approximately

239,000 beneficiaries under El Salvador's TPS designation who may be eligible to continue their TPS under the extension announced in this Notice.

What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a foreign state designated for TPS under the INA, or to eligible individuals without nationality who last habitually resided in the designated foreign state before arrival in the United States, regardless of their country of birth.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to obtain EADs so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may also apply for and be granted travel authorization as a matter of DHS discretion.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(1)–(2), 8 U.S.C. 1254a(c)(1)–(2).
- When the Secretary terminates a foreign state's TPS designation, beneficiaries return to one of the following:
 - The same immigration status or category that they maintained before TPS, if any (unless that status or category has since expired or terminated); or
 - Any other lawfully obtained immigration status or category they received while registered for TPS, as long as it is still valid beyond the date TPS terminates.

When was El Salvador designated for TPS?

El Salvador was initially designated for TPS on the basis of environmental disaster, following two separate massive earthquakes in 2001¹ that resulted in a substantial disruption of living conditions, at the request of the country's government, and because El

¹ *El Salvador—Earthquakes Final Fact Sheet, Fiscal Year (FY) 2001*, US Agency for International Development Situation Report, Sept. 7, 2001, available at <https://reliefweb.int/report/el-salvador/el-salvador-earthquakes-final-fact-sheet-fiscal-year-fy-2001> (last visited March 6, 2023). (The first earthquake on January 13, 2001, registered 7.6 in magnitude on the standard seismic scale; the earthquake on February 13, 2001, one month later, measured 6.6 in magnitude.)

Salvador temporarily was unable to handle adequately the return of its nationals. *See Designation of El Salvador Under Temporary Protected Status Program*, 66 FR 14214 (Mar. 9, 2001). After its initial designation, El Salvador's TPS designation was extended 11 consecutive times² (for periods of 12 or 18 months at a time) under the same statutory basis of environmental disaster. The Secretary last extended TPS for El Salvador from July 8, 2016 through March 9, 2018.³ Following the statutorily required review of the country conditions, former Secretary Nielsen announced the termination of TPS for El Salvador with an effective date of September 9, 2019.⁴ As discussed below, this termination decision has been the subject of litigation and a court order. As a result, the termination has not taken effect.

² *Extension of the Designation of El Salvador Under the Temporary Protected Status Program; Automatic Extension of Employment Authorization Documentation for Salvadorans*, 67 FR 46000 (July 11, 2002); *Extension of the Designation of El Salvador Under Temporary Protected Status Program; Automatic Extension of Employment Authorization Documentation for El Salvador*, 68 FR 42071 (July 16, 2003); *Extension of the Designation of Temporary Protected Status for El Salvador; Automatic Extension of Employment Authorization Documentation for El Salvador TPS Beneficiaries*, 70 FR 1450 (Jan. 7, 2005); *Extension of the Designation of Temporary Protected Status for El Salvador; Automatic Extension of Employment Authorization Documentation for El Salvadorian TPS Beneficiaries*, 71 FR 34637 (June 15, 2006); *Extension of the Designation of El Salvador for Temporary Protected Status; Automatic Extension of Employment Authorization Documentation for Salvadoran TPS Beneficiaries*, 72 FR 46649 (Aug. 21, 2007); *Extension of the Designation of El Salvador for Temporary Protected Status*, 73 FR 57128 (Oct. 1, 2008); *Extension of the Designation of El Salvador for Temporary Protected Status and Automatic Extension of Employment Authorization Documentation for Salvadoran TPS Beneficiaries*, 75 FR 39556 (July 9, 2010); *Extension of the Designation of El Salvador for Temporary Protected Status and Automatic Extension of Employment Authorization Documentation for Salvadoran TPS Beneficiaries*, 77 FR 1710 (Jan. 11, 2012); *Extension of the Designation of El Salvador for Temporary Protected Status*, 78 FR 32418, (May 30, 2013); *Extension of the Designation of El Salvador for Temporary Protected Status*, 80 FR 893 (Jan. 7, 2015); *Extension of the Designation of El Salvador for Temporary Protected Status*, 81 FR 44645 (July 8, 2016).

³ *Extension of the Designation of El Salvador for Temporary Protected Status*, 81 FR 44645 (July 8, 2016).

⁴ *Termination of the Designation of El Salvador for Temporary Protected Status*, 83 FR 2654 (Jan. 18, 2018).

Litigation Background Regarding Termination of Certain TPS Designations

In addition to El Salvador, in 2017–2018, TPS termination decisions were also announced for five other countries by the Secretary or Acting Secretary: Sudan, Nicaragua, Haiti, Nepal, and Honduras.⁵ Lawsuits challenging the terminations were filed in the U.S. District Court for the Northern District of California in *Ramos v. Nielsen*, 326 F. Supp. 3d 1075 (N.D. Cal. 2018), and *Bhattarai v. Nielsen*, No. 19–cv–00731 (N.D. Cal. Mar. 12, 2019), and in the U.S. District Court for the Eastern District of New York in *Saget v. Trump*, 375 F. Supp. 3d 280 (E.D.N.Y. 2019).⁶ In *Ramos*, the district court granted a preliminary injunction enjoining the terminations of TPS for El Salvador, Haiti, Sudan, and Nicaragua and directed DHS to maintain the *status quo* and to continue the TPS and TPS-

related documentation of affected TPS beneficiaries under those countries' designations. The U.S. Government appealed, and a three-judge panel vacated the injunction. The appellate court, however, has granted rehearing en banc of the panel decision, vacating the panel's decision.⁷ The district court's preliminary injunction thus remains in place. In *Bhattarai*, the district court has stayed proceedings until the *Ramos* appeal is decided and approved the parties' stipulation for the continuation of TPS and TPS-related documentation for eligible, affected beneficiaries of TPS for Honduras and Nepal during the stay and pendency of the *Ramos* appeal. In *Saget*, the district court granted a preliminary injunction enjoining termination of TPS for Haiti, and the Government appealed. However, following the new TPS designation of Haiti in August 2021, the district court dismissed the lawsuit based on the parties' stipulation to dismissal.⁸ Beneficiaries under the TPS designations for El Salvador, Nicaragua, Sudan, Haiti, Honduras, and Nepal will retain their TPS while the preliminary injunction in *Ramos* remains in effect, and 120 days thereafter, provided that their TPS is not withdrawn because of individual ineligibility.⁹

DHS has taken actions to ensure its continued compliance with the court orders in *Ramos* and *Bhattarai*. DHS has published periodic notices to continue TPS and extend the validity of TPS-related documentation previously issued to beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal.¹⁰ The most recent such notice continued TPS and extended the TPS-related documents specified in the notice through June 30, 2024.¹¹ These

extensions apply where the TPS beneficiary properly filed for re-registration during either the most recent DHS-announced registration period for their country, or any applicable previous DHS-announced re-registration periods for the beneficiary's country, or has a re-registration application that remains pending.¹² Although the notice published at 87 FR 68717 remains valid, individuals who wish to remain eligible for TPS under the extension of TPS for El Salvador announced in this notice through March 9, 2025, and any potential future extensions must apply for re-registration in accordance with the procedures announced in this notice.¹³ Failure to timely re-register without good cause is a ground for TPS withdrawal. See INA section 244(c)(3)(C), 8 U.S.C. 1254a(c)(3)(C); 8 CFR 244.17.

What authority does the Secretary have to reconsider and rescind the termination of TPS for El Salvador and extend the prior designation?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate agencies of the U.S. Government, to designate a foreign state (or part thereof) for TPS if the Secretary determines that certain country conditions exist.¹⁴ The decision to designate any foreign state

Sudan, Honduras, and Nepal, 87 FR 68717 (Nov. 16, 2022).

¹² *Id.*, at 68719, note 5 (listing acceptable re-registration periods for each of the 6 countries).

¹³ Through the re-registration process, which is generally conducted every 12 to 18 months while a foreign state is designated for TPS, USCIS determines whether each TPS beneficiary is continuing to maintain individual eligibility for TPS, including but not limited to, the requirements related to disqualifying criminal or security issues. Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal, 87 FR 68717, 68720 (Nov. 16, 2022) (noting potential future action for El Salvador TPS beneficiaries may include a requirement to re-register).

¹⁴ Although the text of INA section 244(b)(1) continues to ascribe this power to the Attorney General, this authority is now held by the Secretary of Homeland Security by operation of the Homeland Security Act of 2002, Pub. L. 107–296, 116 Stat. 2135. See, e.g., 6 U.S.C. 557; *Nielsen v. Preap*, 139 S. Ct. 954, 959 n.2 (2019). The Secretary may designate a country (or part of a country) for TPS on the basis of ongoing armed conflict such that returning would pose a serious threat to the personal safety of the country's nationals and habitual residents, environmental disaster (including an epidemic), or extraordinary and temporary conditions in the country that prevent the safe return of the country's nationals. For environmental disaster-based designations, certain other statutory requirements must be met, including that the foreign government must request TPS. A designation based on extraordinary and temporary conditions cannot be made if the Secretary finds that allowing the country's nationals to remain temporarily in the United States is contrary to the U.S. national interest. INA section 244(b)(1).

⁵ *Termination of the Designation of Sudan for Temporary Protected Status*, 82 FR 47228 (Oct. 11, 2017); *Termination of the Designation of Nicaragua for Temporary Protected Status*, 82 FR 59636 (Dec. 15, 2017); *Termination of the Designation of Haiti for Temporary Protected Status*, 83 FR 2648 (Jan. 18, 2018); *Termination of the Designation of Nepal for Temporary Protected Status*, 83 FR 23705 (May 22, 2018); *Termination of the Designation of Honduras for Temporary Protected Status*, 83 FR 26074 (June 5, 2018). Haiti and Sudan were later newly designated for TPS on August 3, 2021 and April 19, 2022, respectively, for 18 months. See *Designation of Haiti for Temporary Protected Status*, 86 FR 41863 (Aug. 3, 2021); *Designation of Sudan for Temporary Protected Status*, 87 FR 23202 (Apr. 19, 2022).

⁶ See *Ramos v. Nielsen*, 336 F. Supp. 3d 1075 (N.D. Cal. 2018), vacated, 975 F.3d 872 (9th Cir. 2020), reh'g en banc granted, 59 F.4th 1010 (Feb. 10, 2023); *Bhattarai v. Nielsen*, No. 19–cv–00731 (N.D. Cal. Mar. 12, 2019) (staying proceedings until *Ramos* appeal decided and approved parties' stipulation for continued TPS and issuance of TPS-related documentation to eligible, affected beneficiaries of TPS for Honduras and Nepal during the stay and pendency of the appeal). In 2019, the U.S. District Court for the Eastern District of New York also enjoined the termination of the 2011 TPS designation for Haiti in *Saget v. Trump*, 375 F. Supp. 3d 280 (E.D.N.Y. 2019), and DHS cited to that order in previous notices continuing the affected beneficiaries' TPS and documentation. See, e.g., 86 FR 50725, 50726 (Sept. 10, 2021). However, the *Saget* case was dismissed upon the court's approval of the parties' joint Stipulation of Dismissal for mootness following the Secretary's new 18-month designation of Haiti for TPS on August 3, 2021, and DHS' continuation of existing beneficiaries' TPS and related documentation under the *Ramos* injunction through Dec. 31, 2022. See *id.*, Order approving Stipulation of Dismissal, dated Oct. 15, 2021. Other litigation was filed relating to the terminations of El Salvador, Honduras, and Haiti. A Haiti-related case, *NAACP v. U.S. Dept. of Homeland Security*, No. 1:18–cv–00239 (D. Md. Jan. 24, 2018) was dismissed on May 22, 2021, subsequent to the same DHS designation. An El Salvador-related case, *Casa de Maryland, v. Biden*, No. GJH–18–00845 (D. Md. Mar. 23, 2018), is currently stayed until April 17, 2023. *Centro Presente v. Biden*, No. 1:18–cv–10340 (D. Mass. July 23, 2018), relating to El Salvador, Haiti, and Honduras, is currently stayed until April 14, 2023.

⁷ See *Ramos v. Wolf*, 975 F.3d 872 (9th Cir. 2020), petition for reh'g en banc granted, 59 F.4th 1010 (Feb. 10, 2023) (No. 18–16981).

⁸ See *Saget v. Trump*, 375 F. Supp. 3d 280 (E.D.N.Y. 2019) and Order approving Stipulation of Dismissal, dated Oct. 15, 2021.

⁹ As noted, Haiti was newly designated for TPS on August 3, 2021 for 18 months. See *Designation of Haiti for Temporary Protected Status*, 86 FR 41863 (Aug. 3, 2021). On April 19, 2022, the Secretary also newly designated Sudan TPS. See *Designation of Sudan for Temporary Protected Status*, 87 FR 23202 (Apr. 19, 2022). Those designations cover all Haitian and Sudanese nationals who were eligible for TPS under the Haiti and Sudan TPS designations that were terminated in 2018 and 2017, respectively.

¹⁰ 83 FR 54764 (Oct. 31, 2018); 84 FR 7103 (Mar. 1, 2019); 84 FR 20647 (May 10, 2019) (correction notice issued at 84 FR 23578 (May 22, 2019)); 84 FR 59403 (Nov. 4, 2019); 85 FR 79208 (Dec. 9, 2020); 86 FR 50725 (Sept. 10, 2021) (correction notice issued at 86 FR 52694 (Sept. 22, 2021)).

¹¹ *Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations of El Salvador, Haiti, Nicaragua,*

(or part thereof) is a discretionary decision, and there is no judicial review of any determination with respect to the designation, termination, or extension of a designation. *See* INA section 244(b)(5)(A); 8 U.S.C. 1254a(b)(5)(A).

At least 60 days before the expiration of a foreign state's TPS designation, the Secretary, after consultation with appropriate U.S. Government agencies, must review the conditions in the foreign state designated for TPS to determine whether they continue to meet the conditions for the TPS designation. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B). If the Secretary does not determine that the foreign state no longer meets the conditions for TPS designation, the designation is extended for an additional period of 6 months or, in the Secretary's discretion, 12 or 18 months. *See* INA section 244(b)(3)(A), (C); 8 U.S.C. 1254a(b)(3)(A), (C).

On January 18, 2018, the Secretary of Homeland Security issued notice of her decision that El Salvador no longer continued to meet the conditions for TPS designation and announced the termination of TPS for El Salvador. The Secretary also announced an orderly transition period of 18 months, such that the termination was set to go into effect on September 9, 2019. On March 12, 2018, as noted above, plaintiffs in *Ramos* filed suit challenging the termination decision for El Salvador, as well as contemporaneous decisions to terminate TPS for Nicaragua, Sudan, and Haiti. On October 3, 2018, the U.S. District Court for the Northern District of California issued a preliminary injunction order in *Ramos*, preventing the termination decision from going into effect until the court reaches a decision on the merits of the plaintiffs' claims and further directing that DHS maintain the *status quo*, including continuing TPS and TPS-related documentation, such as Employment Authorization Documents (EADs), for affected beneficiaries. After reaching a stipulation with plaintiffs that no termination would go in effect for at least 120 days following the conclusion of any appeal, DHS has issued a series of **Federal Register** notices continuing TPS and TPS-related documentation for affected TPS beneficiaries, with the most recent continuation notice effective through June 30, 2024.¹⁵ As a result, the announced termination of the

TPS designation for El Salvador has never gone into effect, and TPS beneficiaries under that designation have retained their TPS, unless it has been individually withdrawn pursuant to INA section 244(c)(3), 8 U.S.C. 1254a(c)(3).

An agency has inherent (that is, statutorily implicit) authority to revisit its prior decisions unless Congress has expressly limited that authority.¹⁶ The TPS statute does not limit the Secretary's inherent authority to reconsider any TPS-related determination, and upon reconsideration, to change the determination. *See* INA sections 244(b)(3), (b)(5)(A); 8 U.S.C. 1254a(b)(3), (b)(5)(A).

Why is the Secretary rescinding the previous decision to terminate the TPS designation for El Salvador?

After conducting an independent assessment of the country conditions in El Salvador as they existed in 2018 and exist today, the Secretary has determined that El Salvador's 2001 TPS designation should not have been terminated. As explained below, the conditions in El Salvador that gave rise to its TPS designation in 2001 persisted in 2018 and persist to this day. Accordingly, the Secretary is, upon reconsideration, vacating the 2018 decision terminating El Salvador's TPS designation and extending that designation for an additional 18 months.

El Salvador was initially designated for TPS in 2001 on environmental disaster grounds¹⁷ following two separate earthquakes that occurred that year. El Salvador suffered catastrophic damage as a result of the 2001 earthquakes. Together, the earthquakes killed over 1,150 people,¹⁸ injured over 8,000, and affected more than 1.5

million people¹⁹ (approximately 25 percent of the population²⁰). The earthquakes damaged or destroyed over 300,000 homes, 2,647 public schools and demolished critical infrastructure throughout the country.²¹ The international community responded to the disaster with a significant amount of aid, with the United States initially providing \$16 million in relief assistance and announcing another \$52 million for reconstruction assistance.²² Intergovernmental organizations and other governments also provided substantial aid, including a \$20 million emergency loan from the Inter-American Development Bank (IDB), \$4 million for World Food Programme (WFP) emergency operations, and \$1.3 billion in pledges from various countries.²³

While some progress on reconstruction projects had been made by 2018, many of the problems caused by the 2001 earthquakes persisted.²⁴ Since the disastrous effects of the earthquakes in 2001, El Salvador has

¹⁹ *El Salvador—Earthquakes Final Fact Sheet, Fiscal Year (FY) 2001*, US Agency for International Development Situation Report, Sept. 7, 2001, available at <https://reliefweb.int/report/el-salvador/el-salvador-earthquakes-final-fact-sheet-fiscal-year-fy-2001> (last visited March 6, 2023).

²⁰ *El Salvador Earthquakes: Final Fact Sheet (FY 2001)*; *AFSC El Salvador earthquake response: Two years later—An assessment and report*, American Friends Service Committee, May 15, 2003, available at <https://reliefweb.int/report/el-salvador/afsc-el-salvador-earthquake-response-two-years-later-assessment-and-report> (last visited March 6, 2023).

²¹ *El Salvador Earthquakes: Final Fact Sheet (FY 2001)*; *AFSC El Salvador earthquake response: Two years later—An assessment and report*, American Friends Service Committee, May 15, 2003, available at <https://reliefweb.int/report/el-salvador/afsc-el-salvador-earthquake-response-two-years-later-assessment-and-report> (last visited March 6, 2023).

²² Statement by the President: Relief and Reconstruction Assistance for El Salvador, March 2, 2001, <https://georgewebush-whitehouse.archives.gov/news/releases/2001/03/20010302-9.html> (last visited: March 6, 2023).

²³ *El Salvador—Earthquakes Final Fact Sheet, Fiscal Year (FY) 2001*, Sept. 7, 2001, <https://reliefweb.int/report/el-salvador/el-salvador-earthquakes-final-fact-sheet-fiscal-year-fy-2001> (last visited: March 6, 2023).

²⁴ A January 2016 report by a Salvadoran media outlet found individuals living in homes in San Salvador (El Salvador's capital city) which were declared uninhabitable due to structural damage from the 2001 earthquakes or their locations in areas at high risk from landslides or the potential collapse of walls. While schools have been reconstructed and repaired—including via the U.S. Agency for International Development's (USAID) Earthquake Reconstruction Program—in January 2016 a Salvadoran media outlet reported that certain buildings and schools damaged by the 2001 earthquakes had not yet been repaired or rebuilt. Joma, Susana, Edificios dañados por los terremotos aún son amenaza, *El Diario de Hoy* (El Sal.), Jan. 11, 2016; Contributions of the PDNA and DRF to Post-Disaster Recovery: El Salvador Case Study 2022, United Nations Development Programme, available at <https://www.undp.org/latin-america/publications/case-study-contributions-pdna-and-drf-post-disaster> (last visited: March 17, 2023).

¹⁶ *Ivy Sports Medicine, LLC v. Burwell*, 767 F.3d 81, 86 (D.C. Cir. 2014) (“[A]dministrative agencies are assumed to possess at least some inherent authority to revisit their prior decisions, at least if done in a timely fashion. . . . [I]nherent authority for timely administrative reconsideration is premised on the notion that the power to reconsider is inherent in the power to decide.” (quotation marks and citations omitted)); *Macktal v. Chao*, 286 F.3d 822, 825–26 (5th Cir. 2002) (“It is generally accepted that in the absence of a specific statutory limitation, an administrative agency has the inherent authority to reconsider its decisions.”) (collecting cases); *Mazaleski v. Treusdell*, 562 F.2d 701, 720 (D.C. Cir. 1977) (“We have many times held that an agency has the inherent power to reconsider and change a decision if it does so within a reasonable period of time.”).

¹⁷ *Designation of El Salvador Under Temporary Protected Status Program*, 66 FR 14214 (Mar. 9, 2001).

¹⁸ *Earthquakes Fast Facts*, CNN Editorial Research, June 22, 2022, available at <https://www.cnn.com/2013/07/05/world/earthquakes-fast-facts/index.html> (last visited March 6, 2023).

¹⁵ *See* note 13 above.

been encumbered by several natural disasters, environmental challenges, high levels of violence, and economic instability, all of which significantly slowed its recovery and continued to render El Salvador unable to handle the return of its nationals at the time of the decision to terminate the designation.²⁵

At the time of the determination to terminate the designation of TPS, DHS found that the social and economic conditions affected by the earthquakes had stabilized. That conclusion was in error and reflects an inadequate assessment of conditions in El Salvador leading up to the announcement of the decision to terminate. Although some social and economic progress had been made by 2018, frequent and significant environmental disasters occurred after the 2001 earthquakes causing additional challenges.²⁶ Recovery from the earthquakes continued to be slow and encumbered by hurricanes and tropical storms, heavy rains and flooding, volcanic and seismic activity, a coffee rust epidemic, a prolonged and severe drought, and an increase in various mosquito-borne diseases, among other things.

Numerous natural disasters have negatively affected El Salvador since the 2001 earthquakes and have adversely impacted its ability to adequately handle the return of its nationals granted TPS. In October 2005, for instance, the severe flooding caused by Tropical Storm Stan, coupled with the eruption of the Ilamatepec volcano in early October 2005, affected approximately half of the population of El Salvador.²⁷ In November 2009,

Tropical Storm Ida caused severe damage and loss of life.²⁸ In October 2011, Tropical Storm 12—E caused flooding and mudslides across El Salvador.²⁹ In June 2013, Tropical Storm Barry caused flooding,³⁰ and the high waves produced by tropical storms in May 2015 forced evacuations and caused damage along the Salvadoran coastal line.³¹ In October 2015, heavy rains produced flooding and landslides across El Salvador.³² In 2016, El Salvador had the third highest percentage of people exposed to disaster risk in the world, with 88.7 percent of the land and 95.4 percent of the population at risk of multiple kinds of disasters.³³ In June 2017, several days of heavy rainfall caused floods and landslides; four people were killed, nearly 300 were displaced, and over 200 homes were damaged.³⁴ In early

floods-and-volcanic-activity-ocha-situation-report-no (last visited March 6, 2023); Analysis of Tropical Storm Stan in El Salvador, Centro de Intercambio y Solidaridad, Nov. 16, 2005, available at: <https://reliefweb.int/report/el-salvador/analysis-tropical-storm-stan-el-salvador> (last visited Mar. 6, 2023); El Salvador-Disaster Response, USAID, Sept. 7, 2022, available at <https://www.usaid.gov/el-salvador/our-work/disaster-response> (last visited March 6, 2023).

²⁸ Hurricane Ida and floods in Central America: OCHA Situation Report No. 1, UN Office for the Coordination of Humanitarian Affairs, Nov. 9, 2009 available at: <https://reliefweb.int/report/el-salvador/hurricane-ida-and-floods-central-america-ocha-situation-report-no-1-9-nov-2009> (last visited Mar. 6, 2023); El Salvador-Disaster Response, USAID, Sept. 7, 2022, available at <https://www.usaid.gov/el-salvador/our-work/disaster-response> (last visited March 6, 2023).

²⁹ Bertelsmann Stiftung, BTI 2014—El Salvador Country Report. Gütersloh: Bertelsmann Stiftung, 2014, available at https://bti-project.org/fileadmin/api/content/en/downloads/reports/country_report_2014_SLV.pdf (last visited Mar. 7, 2023); El Salvador-Disaster Response, USAID, Sept. 7, 2022, available at <https://www.usaid.gov/el-salvador/our-work/disaster-response> (last visited March 6, 2023).

³⁰ Stewart, Stacy R., *Tropical Storm Barry (AL022013)*, 17–20 June 2013, National Hurricane Center, Oct. 7, 2013, available at https://www.nhc.noaa.gov/data/tcr/AL022013_Barry.pdf (last visited March 6, 2023).

³¹ El Salvador: Storm Surge Emergency Plan of Action (EPoA) DREF Operation n° MDRSV008, International Federation of Red Cross and Red Crescent Societies (IFRC) Situation Report, May 15, 2015, available at <http://reliefweb.int/report/el-salvador/el-salvador-storm-surge-emergency-plan-action-epoa-dref-operation-n-mdrsv008> (last visited March 6, 2023).

³² Guinto, Joel, Typhoon Kills At Least 16 In Philippines, Strands Thousands, *Terra Daily*, Oct. 19, 2015, available at http://www.terradaily.com/reports/Typhoon_kills_at_least_16_in_Philippines_strands_thousands_999.html (last visited: March 6, 2023).

³³ Signing of Japanese ODA Loan with El Salvador: Improving the capacity to mitigate and manage disaster risk, and providing speedy assistance for financing needs in the reconstruction stage, Japan International Cooperation Agency, May 30, 2016, available at <https://reliefweb.int/report/el-salvador/signing-japanese-oda-loan-el-salvador-improving-capacity-mitigate-and-manage> (last visited: March 6, 2023).

³⁴ *El Salvador—Floods (Dirección General de Protección Civil, SNET, Local Media) (ECHO Daily*

October 2017, Tropical Storm Nate impacted El Salvador, leaving one person dead and one missing.³⁵ In late October 2017, Tropical Storm Selma brought heavy rain and flooding that caused massive mudslides, overflowed rivers, and left debris on roads.³⁶

These environmental disasters have had negative impacts on El Salvador's economic stability that were not considered in the 2018 termination decision.³⁷ The 2018 termination decision highlighted El Salvador's steady unemployment rate of 7 percent from 2014–2016 but failed to consider that it has the second slowest economic growth rate in Central America, leading to an underemployment rate of 36.8 percent in 2018.³⁸ According to the 2017 Global Climate Risk Index, El Salvador ranked as the 15th most affected country in the world by extreme weather events from 1996 to 2015, the most recent year for which data was available at the time the termination decision was made.³⁹ During this time, El Salvador averaged \$282 million in damages per year—equivalent to 0.7 percent of its GDP.⁴⁰ In 2016, El Salvador was considered the 17th highest country in the world in terms of the impact of disasters on the gross domestic product.⁴¹ An estimated

Flash of 20 June 2017, European Commission's Directorate-General for European Civil Protection and Humanitarian Aid Operations, June 20, 2017, available at <https://reliefweb.int/report/el-salvador/el-salvador-floods-direcci-n-general-de-protecci-n-civil-snet-local-media-echo> (last accessed March 6, 2023).

³⁵ *Nate Kills At Least 20 in Central America, Tracks Toward US*, VOA News, Oct. 6, 2017, available at <https://www.voanews.com/a/nate-takes-aim-us-still-reeling-from-earlier-storms/4059008.html> (last accessed March 6, 2023).

³⁶ Report: Extending Temporary Protected Status for El Salvador: Country Conditions and U.S. Legal Requirements, American University, Dec. 2017, available at: <https://www.american.edu/centers/latin-american-latino-studies/extending-tps-for-el-salvador.cfm> (last visited: March 6, 2023).

³⁷ Contributions of the PDNA and DRF to Post-Disaster Recovery: El Salvador Case Study 2022, United Nations Development Programme, available at <https://www.undp.org/latin-america/publications/case-study-contributions-pdna-and-drf-post-disaster> (last accessed March 6, 2023).

³⁸ Fact Sheet Employment and Migration El Salvador 2021, International Labour Organization, December 8, 2021, available at https://www.ilo.org/wcmsp5/groups/public/-americas/-ro-lima/-sro-san_jose/documents/publication/wcms_831274.pdf (last accessed March 6, 2023).

³⁹ Kreft, Sönke, Eckstein, David and Melchior, Inga, *Global Climate Risk Index 2018*, Germanwatch, p. 23, Nov. 2017.

⁴⁰ Kreft, Sönke, Eckstein, David and Melchior, Inga, *Global Climate Risk Index 2018*, Germanwatch, p. 23, Nov. 2017.

⁴¹ Signing of Japanese ODA Loan with El Salvador: Improving the capacity to mitigate and manage disaster risk, and providing speedy assistance for financing needs in the reconstruction stage, Japan International Cooperation Agency, May 30, 2016, available at <https://reliefweb.int/report/el-salvador/signing-japanese-oda-loan-el-salvador-improving-capacity-mitigate-and-manage>

²⁵ El Salvador-Disaster Response, USAID, Sept. 7, 2022, available at <https://www.usaid.gov/el-salvador/our-work/disaster-response> (last visited March 6, 2023); Miracle or Mirage? Gangs and Plunging Violence in El Salvador, International Crisis Group, p.2, July 8, 2020, available at <https://www.crisisgroup.org/latin-america-caribbean/central-america/el-salvador/81-miracle-or-mirage-gangs-and-plunging-violence-el-salvador> (last visited March 6, 2023); El Salvador: Civil War, Natural Disasters, and Gang Violence Drive Migration, Migration Policy Institute, Aug. 29, 2018, available at: <https://www.migrationpolicy.org/article/el-salvador-civil-war-natural-disasters-and-gang-violence-drive-migration> (last visited: March 6, 2023).

²⁶ Report: Extending Temporary Protected Status for El Salvador: Country Conditions and U.S. Legal Requirements, American University, Dec. 2017, available at: <https://www.american.edu/centers/latin-american-latino-studies/extending-tps-for-el-salvador.cfm> (last visited: March 6, 2023); Resolving Land Ownership Issues for a Community Water Project: A Post-Earthquake Development Dispute in Rural El Salvador, April 07, 2010, <https://www.tandfonline.com/doi/pdf/10.1080/14649350903538046> (last visited: March 6, 2023).

²⁷ El Salvador: Hurricane Stan, Floods and Volcanic Activity OCHA Situation Report No. 2, UN Office for the Coordination of Humanitarian Affairs, Oct. 7, 2005, available at <https://reliefweb.int/report/el-salvador/el-salvador-hurricane-stan->